

Memo



Date: January 11, 2010

To: City Manager

From: Community Sustainability Division

File No: A09-0015

Applicant: Travis Kuchma

At: 1425 McCurdy Road East

Owner: Micheal Matvieshen &
Shari Matvieshen

Purpose: To obtain approval from the Agricultural Land Commission under Section 20(3) of the Agricultural Land Commission Act for a non-farm use within the Agricultural Land Reserve to allow a detached secondary suite on the property.

Existing Zone: A1 - Agriculture 1

Report Prepared by: Birte Decloux

1.0 RECOMMENDATION

THAT Agricultural Land Reserve Appeal No. A09-0015 for Lot 2, Section 26, Township 26, ODYD Plan 23935 except Plans KAP53090 and KAP84358, for non farm-use of the subject property from the Agricultural Land Reserve, pursuant to Section 20(3) of the *Agricultural Land Commission Act*, NOT be supported by Municipal Council;

AND THAT Municipal Council forward the subject application to the Agricultural Land Commission.

2.0 AGRICULTURAL ADVISORY COMMITTEE

At a meeting held on October 8, 2009, the Agricultural Advisory Committee passed the following recommendation:

THAT the Agricultural Advisory Committee NOT support Application No. A09-0015 for 1425 McCurdy Road, Lot 2, Plan 23935, by 0816896 BC Ltd., to obtain approval from the ALC under Section 20(3) of the ALC Act to allow a secondary suite in an accessory building on the property.

In addition, the following anecdotal comments were recorded in the minutes:

The Agricultural Advisory Committee recommend non support for this application because it would convert designated land of the ALR for non-farm purposes and increase the erosion of farm land. It was confirmed that a homesite severance had been granted in 2007 for a previous owner, allowing the viability of the new single family dwelling to be constructed on the parcel remainder, intended to be actively farmed.

A handwritten signature in black ink, appearing to be a stylized name.

3.0 SUMMARY

The applicant is requesting permission from the Agricultural Land Commission (ALC) to allow a non-farm use within the Agricultural Land Reserve to facilitate a secondary suite in a detached accessory structure on the property.

The land owner had obtained a Building Permit to construct a multi-car garage on the site, however, during construction it was discovered that a portion of the garage was converted for a secondary suite use. As the site is in the Agriculture Land Reserve, an application to the ALC is procedurally required to evaluate the merits of the non-farm use prior to consideration of a re-zoning amendment.

4.0 SITE CONTEXT

The subject property is located on the north side of McCurdy East, approximately 900 m west of the Tower Ranch development in Rutland. A number of buildings are situated on the rear portion of the property. The buildings include a principal single family dwelling with a pool, a utility building, 111.48 m² (1200 sq. ft) shop and a separate multiple car garage. The southern portion of the site consists of a mixed orchard and grape production.

4.1 Parcel Summary:

Parcel Size: 3.622 ha (8.95 ac)
Elevation: 491 m - 527 m

4.2 Subject Property Map - 1425 McCurdy Road East

2006 Ortho photo (prior to purchase by current owner)



2009 Ortho Photo (after construction)



4.3 Zoning of Adjacent Property

North	RR2 - Rural Residential 2 in the ALR
South	A1 - Agriculture 1 in the ALR
East	RR2 - Rural Residential 2 in the ALR
West	A1 - Agriculture 1 in the ALR

5.0 PROPOSAL

The recently constructed multi-car garage on the subject property now contains a secondary suite, requiring a non-farm use approval.

The rationale provided with the application states that they intend to utilize a portion of the existing detached garage as a suite for their parents. However, the pictures provided for the rezoning application demonstrate that the suite has already been constructed. A Building Permit was issued solely for the construction of a garage, and did not contemplate the suite.

6.0 POLICY AND REGULATION

6.1.1 Kelowna 2020 - Official Community Plan

The current Official Community Plan has designated the subject property as Rural / Agricultural.

- 11.1.12 Sustained Agriculture. Encourage the retention of diverse agricultural uses through limits on urban development and non-farm use on lands of sustainable production capability;

6.1.2 City of Kelowna Agriculture Plan

Exclusion, subdivision, or non-farm use of ALR lands will generally not be supported. General non-support for ALR applications is in the interest of protecting farmland through retention of larger parcels, protection of the land base from impacts of urban encroachment, reducing land speculation and the cost of entering the farm business, and encouraging increased farm capitalization.

Farmland Preservation - Direct urban uses to land within the urban portion of the defined urban-rural/agricultural boundary, in the interest of reducing development and speculative pressure, toward the preservation of agricultural lands and discourage further extension of existing urban areas into agricultural lands.

7.0 LAND USE MANAGEMENT DEPARTMENT COMMENTS

The subject property purchased in 2008, has a variety of land capability and soil classification conditions across the site. Potential exists for increase in land capability through improvements such as expanded irrigation and better drainage. However, even with improvements the majority of the site continues to be subject to considerable land capability deficiencies due to the topography. The crops would be limited to fruit products that do not require flat land for farming.

Both the City of Kelowna Official Community Plan and Agriculture Plan express concern that the permitted expansion of urban uses into what is otherwise an agricultural landscape will serve to diminish the viability of agricultural practice. Increased speculative pressure on land and conflict between land uses should be avoided, particularly in agricultural areas under development pressure. However, considering the accessory building is existing and is not being further expanded, no additional land will be converted or removed from agricultural production.

The site contains a variety of uses. A mixed orchard is located on the southern section of the site. A new principal dwelling sits on the northern portion of the site to maximize the view with the accessory building adjacent to it. Parking and landscaping are proposed for the area between the buildings. All buildings, parking, and landscaping are expected to cover a total area of 3,600 m² or 10% of the site. (Staff note that the area of the property as supplied by the applicant is incorrect and ask that Council refer to the site area as stated in the report.)

As part of the garage has already been converted to a secondary suite without the proper applications, it does not give staff an opportunity to comment on the siting of the suite and ensure it meets Council endorsed guidelines and policies. Additionally, the Building and Permitting branch has not had an opportunity to review the plans to ensure that all code regulations of the BC Building code are met.

Staff do not recommend support for this application, as the applicant proceeded to create a secondary suite prior to receiving approval from either the Agriculture Land Commission or the City with respect to land use. The proposal appears to convert a working orchard to a mini-estate, which in the long term diminishes of viability of this site being retained as viable bonafide agriculture land.

Should the Council wish to support this non-farm use application favourably, an alternate recommendation is provided.

8.0 ALTERNATE RECOMMENDATION

THAT Agricultural Land Reserve Appeal No. A09-0015 for Lot 2 Section 26 Township 26 IDYD Plan 23935 except Plans KAP53090 and KAP84358 for a non-farm use of the subject property within the Agricultural Land Reserve, pursuant to Section 20(3) of the *Agricultural Land Commission Act*, be supported by Municipal Council;

AND THAT Municipal Council forward the subject application to the Agricultural Land Commission.



Shelley Gambacort
Director of Land Use Management

Approved for inclusion:



Jim Paterson
General Manager, Community Sustainability

Attachments:

Appendix A - Land and Soil Capability
Subject property Map
Site Map
ALC Application by landowner (2 pages)
Land Capability, and Soil Classification maps (2 pages)
Air photo of subject property
Site Photo

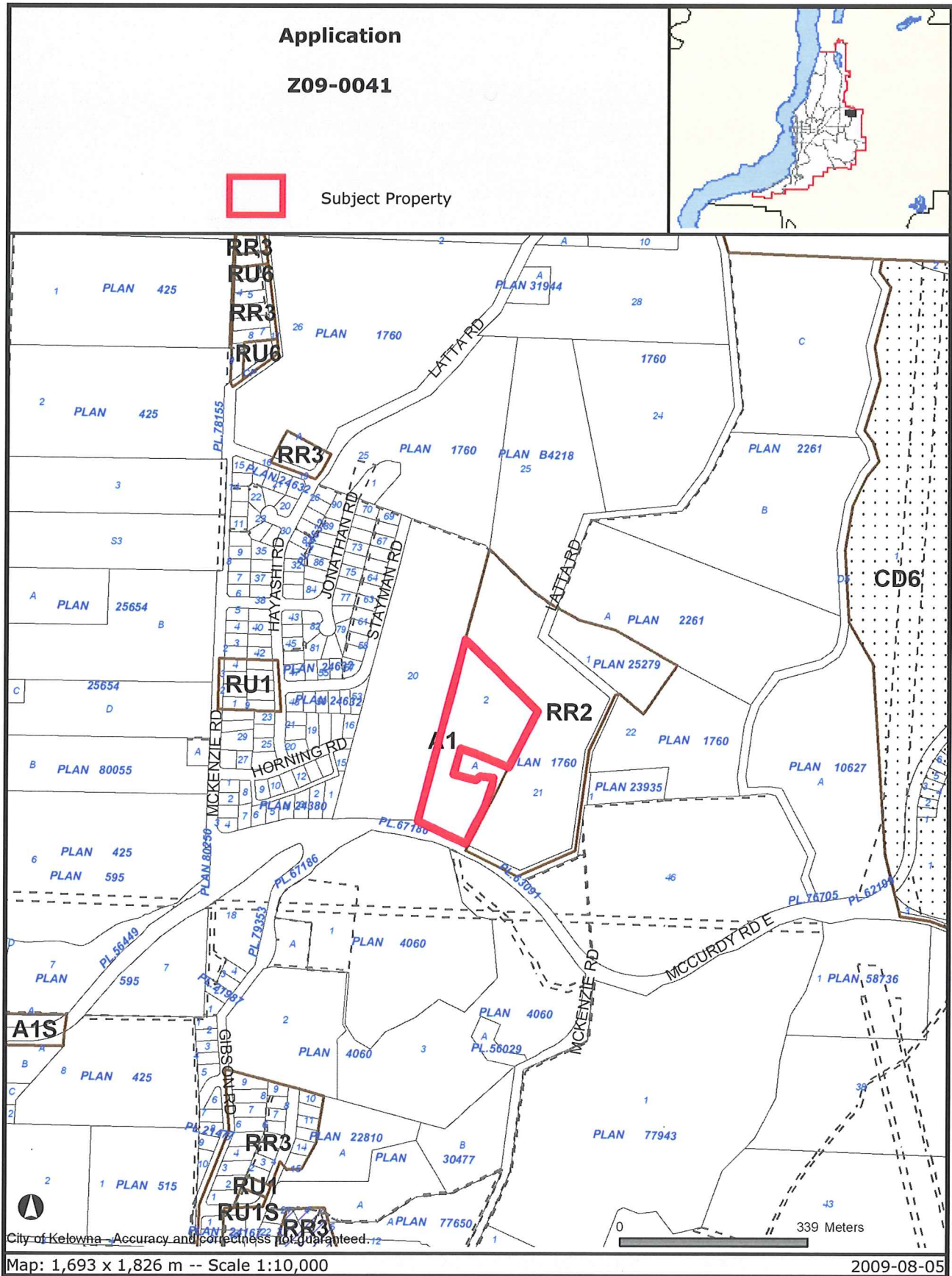
Appendix A - Land and Soil Capability**BCLI Land Capability (Map 82E.094)**

Portion of Site	Land Capability Rating, Unimproved	Land Capability Rating, with Improvements
<i>Sliver at McCurdy Road</i>	<p>80% <u>Class 6</u> Topography: Soils are limited by steepness or pattern of slopes which hinders the use of farm machinery, decreases the uniformity of growth and maturity of crops, and /or increases the potential for water erosion. Past damage from erosion limits agricultural use due to productivity loss and/or hampers cultivation (eg. Gullies)</p> <p>20% <u>Class 6</u> Excess Water: Soils are limited by excess water, other than from flooding, which limits agricultural use. The excess water may be due to the poor drainage, high water tables, seepage, and/or runoff from surrounding areas.</p>	<p>80% <u>Class 6</u> Topography: Soils are limited by steepness or pattern of slopes which hinders the use of farm machinery, decreases the uniformity of growth and maturity of crops, and /or increases the potential for water erosion. Past damage from erosion limits agricultural use due to productivity loss and/or hampers cultivation (eg. Gullies)</p> <p>20% <u>Class 4</u> Excess Water: Soils are limited by excess water, other than from flooding, which limits agricultural use. The excess water may be due to the poor drainage, high water tables, seepage, and/or runoff from surrounding areas.</p> <p>Topography: Soils are limited by steepness or pattern of slopes which hinders the use of farm machinery, decreases the uniformity of growth and maturity of crops, and /or increases the potential for water erosion. Past damage from erosion limits agricultural use due to productivity loss and/or hampers cultivation (eg. Gullies)</p>
<i>Lower portion</i>	<p>100% <u>Class 5</u> - Soil Moisture Deficiency: Crops are adversely affected by droughtiness caused by low soil water holding capacity or insufficient precipitation.</p>	<p>60% <u>Class 3</u> Soil Moisture Deficiency: Crops are adversely affected by droughtiness caused by low soil water holding capacity or insufficient precipitation.</p> <p>Topography as above.</p>
<i>Upper Portion</i>	<p>100% <u>Class 4</u> - Soil Moisture Deficiency: Crops are adversely affected by droughtiness caused by low soil water holding capacity or insufficient precipitation.</p>	<p>70% <u>Class 2</u> - Soil Moisture Deficiency: Crops are adversely affected by droughtiness caused by low soil water holding capacity or insufficient precipitation.</p> <p>30% <u>Class 2</u> - Soil Moisture Deficiency: Crops are adversely affected by droughtiness caused by low soil water holding capacity or insufficient precipitation.</p>

Portion of Site	Land Capability Rating, Unimproved	Land Capability Rating, with Improvements
<i>Eastern sliver</i>	100% <u>Class 4</u> - Soil Moisture Deficiency: Crops are adversely affected by droughtiness caused by low soil water holding capacity or insufficient precipitation.	60% <u>Class 3</u> - Soil Moisture Deficiency: Crops are adversely affected by droughtiness caused by low soil water holding capacity or insufficient precipitation. 40% <u>Class 2</u> - Soil Moisture Deficiency: Crops are adversely affected by droughtiness caused by low soil water holding capacity or insufficient precipitation.

Soil Classification

Portion of Site	%	Soil Type	Description
<i>Sliver at McCurdy Road</i>	80%	OY - Oyama	<u>Land</u> : Very gently to extremely sloping fluvioglacial deposits. <u>Texture</u> : 100 cm or more of sandy loam or loamy sand grading to sand. <u>Drainage</u> : Rapid.
	20%	GR - Gartrell	<u>Land</u> : Nearly level and very gently sloping fluvioglacial deposits. <u>Texture</u> : 60 to 100 cm of loam, or sandy loam over gravely sandy loam or gravely loamy sand. <u>Drainage</u> : Dominantly poor, ranging to imperfect; fluctuating groundwater table and seepage.
<i>Lower portion And Eastern Sliver</i>	60%	Acland Creek	<u>Land</u> : Gently and moderately sloping fluvioglacial deposits. <u>Texture</u> : 60 to 100 cm of loam, or sandy loam over gravely sandy loam or gravely loamy sand. <u>Drainage</u> : Well
	40%	OY - Oyama	<u>Land</u> : Very gently to extremely sloping fluvioglacial deposits. <u>Texture</u> : 100 cm or more of sandy loam or loamy sand grading to sand. <u>Drainage</u> : Rapid.
<i>Upper portion</i>	100%	OY - Oyama	<u>Land</u> : Very gently to extremely sloping fluvioglacial deposits. <u>Texture</u> : 100 cm or more of sandy loam or loamy sand grading to sand. <u>Drainage</u> : Rapid.



City of Kelowna - Accuracy and correctness not guaranteed.

Map: 1,693 x 1,826 m -- Scale 1:10,000

2009-08-05

Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only. The City of Kelowna does not guarantee its accuracy. All information should be verified.

Part 25
Plan 1760 in
Plan B4218

Main Residence
Detached Garage
Electrical Building
Future
Total Area - 3600m²

Rem. 21
Plan 1760

Owner:

E. i.
Eileen Teather

Parking &
Landscaping
Rem. 20
Plan 1760

Sec. 36

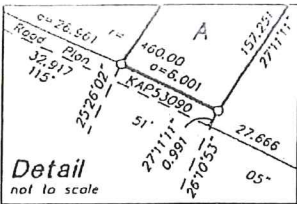
Tp. 26

Total 36,226m²
Area of Property
Rem. 2
Plan 23935

Orchard

Rem. 21
Plan 1760

Orchard



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See Plan
KAP53546

Rem. 1
Plan 4060

Rem. 3
Plan 4060

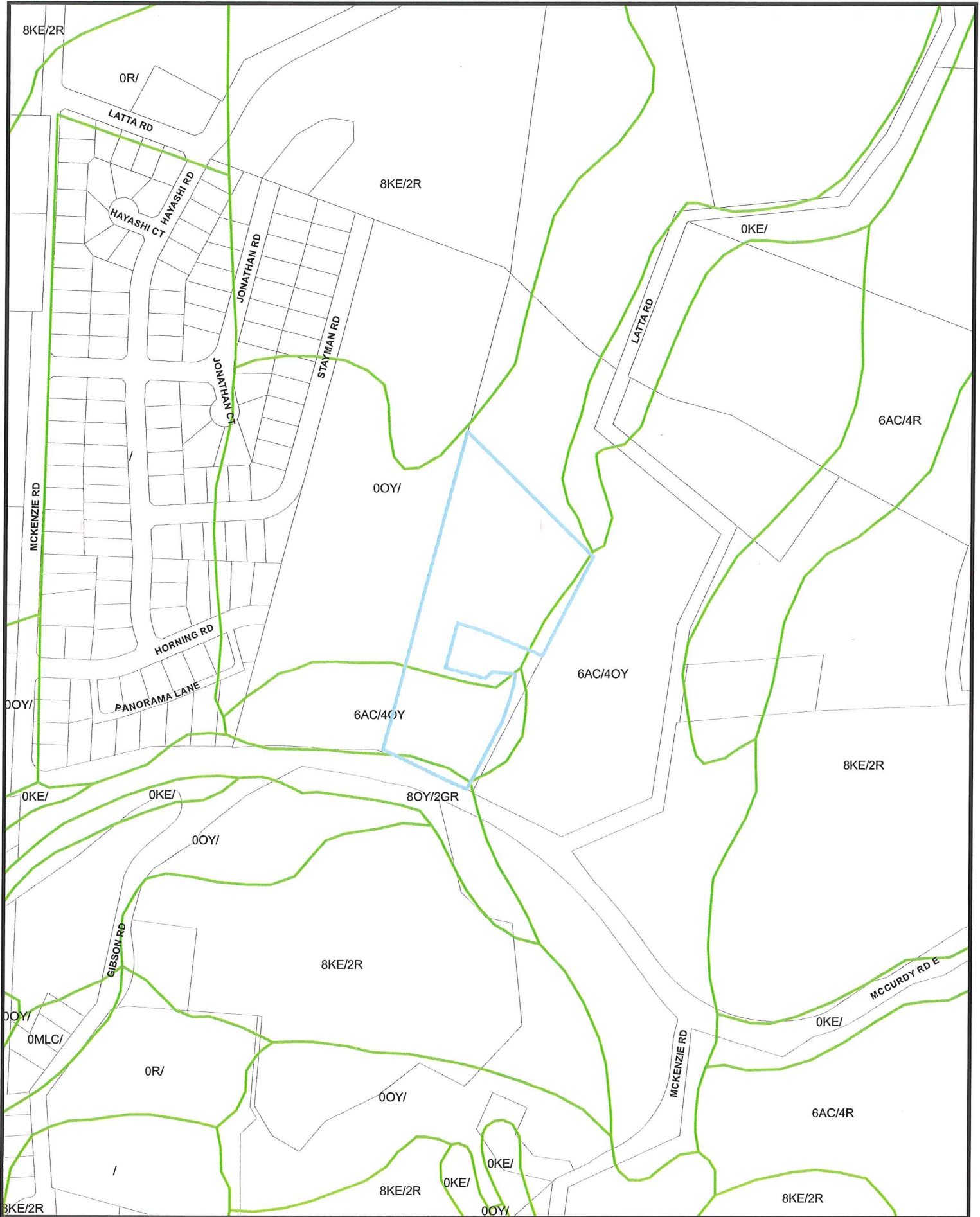
Unregistered post. Set by
L.E. Fritsch BCLS, June 7, 1994

Latta Road

Fritsch
British Co.
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Land Capability = Brown/ Soil Class = Green

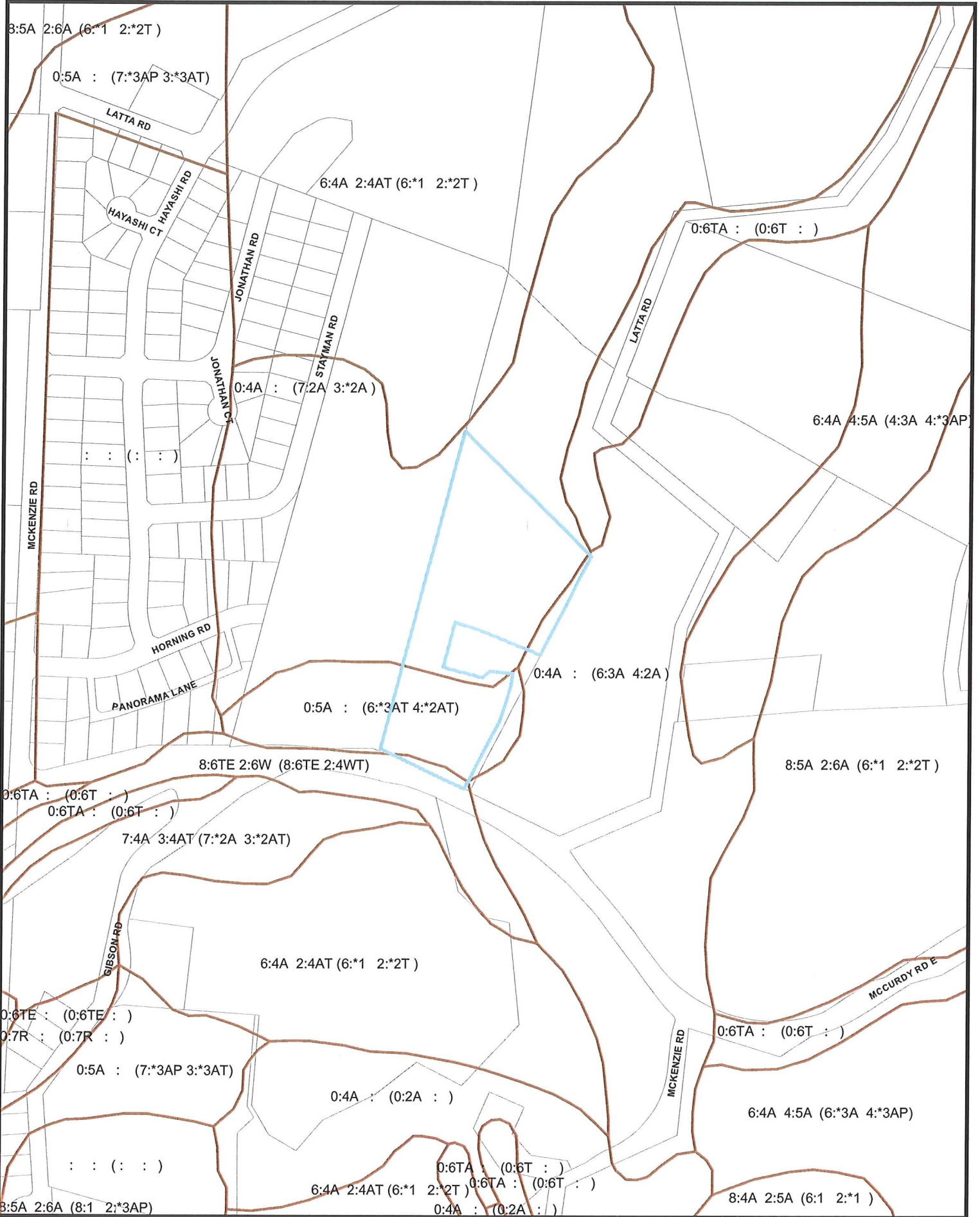
MAP 82E:094



1:5,000

Land Capability = Brown/ Soil Class = Green

Map 82E.094



1:5,000

